

§ 19.687

withdrawn pending subsequent removal for a lawful purpose.

(b) *Spirits withdrawn for use in wine production.* Wine spirits withdrawn under §19.532 for use in wine production, and not so used, may be returned to the bonded premises of a distilled spirits plant. The consignee proprietor shall obtain approval, as provided in §19.506. The wine spirits shall be removed from the winery in accordance with the provisions of 27 CFR part 240.

(c) *Spirits withdrawn for research, development, or testing.* Spirits withdrawn without payment of tax, under the provisions of subpart V of this part, for research, development, or testing may be returned to the bonded premises of the distilled spirits plant from which withdrawn. After returning these spirits to bonded premises, they shall be destroyed, returned to containers, or returned to vessels in the distilling system containing similar spirits.

(d) *Procedure.* When spirits are received, they shall be gauged by the proprietor. When spirits which were removed for exportation are returned to bonded premises pending subsequent removal for a purpose other than exportation, all export marks on the containers in which the spirits are returned shall be obliterated.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5214, 5223, 5373); sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-206, 50 FR 23952, June 7, 1985]

§ 19.687 Return of spirits withdrawn for export with benefit of drawback.

Subject to the provisions of 27 CFR 252.197 through 252.199, whole or partial shipments of spirits withdrawn for export with benefit of drawback may be returned to: (a) The bonded premises of the distilled spirits plant, pursuant to §19.681, or (b) to a wholesale liquor dealer or taxpaid storeroom. Claims filed by proprietors on ATF Form 5110.30 which include the returned spirits shall be reduced by the amount of

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tax paid or determined on the returned spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062); sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215))

§ 19.688 Abandoned spirits.

Spirits abandoned to the United States may be sold, without payment of the tax, to a proprietor of a plant for denaturation or for redistillation and denaturation, if the plant is authorized to denature or redistill and denature spirits. These spirits shall be kept apart from all other spirits or denatured spirits until denatured. The receipt and gauging provisions of §19.683 are applicable to these spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5243))

VOLUNTARY DESTRUCTION

§ 19.691 Voluntary destruction.

(a) *General.* Spirits, denatured spirits, articles, or wines in bond may be voluntarily destroyed as provided in this section. The tax liability on spirits, denatured spirits, articles, or wines so destroyed is extinguished.

(b) *Wine notice.* Wine may be destroyed in bond only after the proprietor has filed notice with the regional director (compliance) stating the kind and quantity of wine to be destroyed and the date and manner in which the wine is to be destroyed. The wine may be destroyed after such notice has been filed.

(c) *Gauging.* A proprietor shall gauge spirits, denatured spirits, articles, or wines to be destroyed. Gauges of spirits in bottles may be established on the basis of legible case markings and label information when:

(1) The bottles are full;

(2) There is no evidence that the bottles have been tampered with.

(d) *Off bonded premises.* Spirits, denatured spirits, articles or wines may be removed and destroyed at a location off bonded premises if the proprietor has filed a consent of surety to cover such removal. If the destruction is accomplished off plant premises, the proprietor shall ensure compliance with applicable Federal, State, and local environmental laws and regulations.

(e) *Record of destruction.* The proprietor shall record the destruction of spirits, denatured spirits, articles, or wines as provided in § 19.767.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

Subpart V—Samples of Spirits

§ 19.701 Spirits withdrawn from bonded premises.

(a) *Samples withdrawn from bonded premises.* The proprietor may withdraw spirits without payment of tax, or wine spirits or brandy free of tax, to the proprietor's laboratory, the laboratory of an affiliated or subsidiary corporation, or, if approved by the regional director (compliance), to a recognized commercial laboratory for testing or analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product. The quantity of spirits so withdrawn shall not exceed the amount necessary for conduct of the proprietor's operations.

(b) *Customer samples.* A quantity of spirits not exceeding 1 liter may be furnished to a prospective purchaser for quality testing (other than consumer testing or other market analysis) only if a bona fide written or oral purchase agreement exists which is contingent upon quality approval by the prospective purchaser; except that a sample not to exceed 1 liter may be furnished to a prospective customer for quality testing in anticipation of a purchase agreement if the customer is authorized to receive bulk spirits for industrial use.

(c) *Research or development.* Spirits may be withdrawn without payment of tax for research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment relating to distilled spirits or distilled spirits plant operations. The amount withdrawn shall be limited to an amount necessary for conduct of the testing, research or development. If the testing, research or development is to be conducted by other than the proprietor, the proprietor shall secure a written statement, executed by the consignee, agreeing that he will maintain records

of the receipt, use, and disposition of all spirits received by him and that those records and operations will be available during regular business hours for inspection by ATF officers.

(d) *Conditions.* (1) Records will be maintained in accordance with § 19.766 of all spirits taken or withdrawn under the provisions of this section.

(2) Remnants or residues of spirits withdrawn but not used during testing, research or development shall be destroyed or returned to the bonded premises for storage with similar products or entry in the continuous distilling system.

(e) *Limitation.* The regional director (compliance) shall proceed to collect the tax on any spirits withdrawn under this section which are found to have been withdrawn, used or disposed of in a manner not authorized by this section.

(f) *Losses.* When spirits are lost prior to being used for the authorized purpose, the proprietor shall either pay the tax or file a claim for remission of tax as prescribed by § 19.41.

(Sec. 201, Pub. L. 86-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5214, 5173))

§ 19.702 Samples used on bonded premises.

The proprietor may take samples of spirits for research, development, testing, or laboratory analysis conducted in a laboratory located on the bonded premises of the distilled spirits plant. The applicable purposes, conditions and limitations for samples taken pursuant to § 19.701 shall also apply to samples taken as authorized by this section.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5008))

§ 19.703 Taxpayment of samples.

When tax is required to be paid on samples:

(a) If the proprietor is qualified to defer payment of tax, the tax shall be included in the proprietor's semi-monthly tax return on Form 5000.24.

(b) If the proprietor is not qualified to defer the payment of tax, the tax